

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RAKEEM EVINS, #263 655

*

Plaintiff,

*

v.

*

2:09-CV-904-TMH
(WO)

LOUIS BOYD, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

This 42 U.S.C. § 1983 action was filed by Plaintiff on September 23, 2009. On December 15, 2009 the court entered an order of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (*Doc. No. 8, ¶6(h).*) The order further informed Plaintiff that his failure to comply with this requirement would result in a Recommendation that this case be dismissed. (*Id.*)

It recently came to the court's attention that Plaintiff is no longer residing at the service address he provided to the court when he filed this complaint. As a result, the court entered an order on July 21, 2010 directing Plaintiff to provide the court with his present address on or before July 30, 2010. (*Doc. No. 22.*) Plaintiff was cautioned that his failure to comply with the court's July 21 order would result in a recommendation that this case be dismissed. (*Id.*) Plaintiff's copy of the court's July 21 order was returned to the court on July 27, 2010 marked as undeliverable. As it appears clear that Plaintiff is no longer residing at the most recent address he provided to the court and that he has not provided this court

with a new address for service, the undersigned concludes that dismissal of the complaint at this juncture is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **September 22, 2010**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 8th day of September, 2010.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE